

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

PERDUE FOODS LLC d/b/a DRAPER VALLEY FARMS¹

Employer

and

Case 19-RC-263822

**TEAMSTERS LOCAL UNION NO. 252 AFFILIATED WITH THE
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

Petitioner

DECISION AND DIRECTION OF ELECTION

The petition in this matter was filed by Teamsters Local Union No. 252 Affiliated with the International Brotherhood of Teamsters (Petitioner) on July 29, 2020,² seeking to represent certain employees of Purdue Foods LLC d/b/a Draper Valley Farms (Employer). Thereafter, on August 19, the parties entered into a Stipulation of Record for Pre-Election Hearing (Stipulation), wherein they were able to agree on all issues except the method of conducting the election. The Employer argued in favor of a manual election, while the Union asserted that a mail-ballot election would be appropriate in view of the COVID-19 pandemic.

Election arrangements, including the voting method, are not litigable matters at a pre-election hearing, but the positions of the parties are considered. The parties were given leave to submit briefs in support of their respective positions on the method to conduct the election, and were asked to specifically address whether they were willing to agree to the safety protocols set forth in General Counsel Memorandum entitled *Suggested Manual Election Protocols* (July 6, 2020) (GC Memo 20-10).

Based on the Stipulation, the parties' arguments including the Employer's brief, and consideration of the circumstances present, I conclude that a mail ballot election is appropriate in the instant case due to the extraordinary circumstances presented by the COVID-19 pandemic. I have ordered an election accordingly.

¹ The parties stipulated, and I find, that the formal documents in this matter, including the petition, be amended to reflect the correct name of the Employer as it appears herein.

² All dates hereinafter are in 2020 unless noted otherwise.

THE EMPLOYER'S OPERATION

The Employer operates a feed mill for the production and distribution of poultry feed at its facility located in Chehalis, Washington (the Employer's facility). Chehalis is located in Lewis County: approximately half-way between the cities of Seattle and Portland, and almost 90 miles from the Seattle Regional office. A total of 12 employees presently work at this facility, 4 of whom are in the petitioned-for unit.

THE IMPACT OF THE COVID-19 PANDEMIC

The impact of the COVID-19 pandemic in the United States since March has been well documented. The Centers for Disease Control and Prevention (CDC) have continued to emphasize that the best way to prevent illness is to avoid being exposed to the virus, since there is currently no approved vaccine or antiviral treatment available and minimizing person-to-person transmission is "critical to reducing the impact of COVID-19."³

As a practical matter this has resulted in many Federal, state, and local government guidelines focusing on the same set of practices to avoid respiratory person-to-person transmission: avoid social gatherings, avoid or limit discretionary travel, practice good hygiene, maintain at least a 6-foot distance between individuals, and use cloth face coverings when around other people. The CDC has also highlighted the risk posed by pre-symptomatic and asymptomatic transmission, stating "transmission in the absence of symptoms reinforce the value of measures that prevent the spread of [COVID-19] by infected persons who may not exhibit illness despite being infectious."⁴ Despite ongoing efforts to limit transmission, as of August 28, over 5.7 million people in the United States have been infected with COVID-19 and nearly 178,000 people have died as a result.⁵

When the current pandemic began in March, the State of Washington issued stay-at-home orders and other quarantine procedures that resulted in the temporary closure of many businesses, as well as restrictions on when and where residents could congregate.⁶ As the rate of infection began to fall in May, Washington's Governor instituted a four-step phased reopening plan entitled "Safe Start" to begin to reduce the strict limitations on businesses and residents.⁷ Under the plan, counties could apply and, if certain benchmarks were met, the state would approve the transition to a new, less-restrictive, phase.⁸

³ See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

⁴ See https://wwwnc.cdc.gov/eid/article/26/7/20-1595_article *Evidence Supporting Transmission of Severe Acute Respiratory Syndrome Coronavirus 2 While Presymptomatic or Asymptomatic*.

⁵ See <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>.

⁶ See *Governor's Executive Proclamation on COVID-19 Community Mitigation Strategies* March 11, 2020 <https://www.governor.wa.gov>

⁷ <https://coronavirus.wa.gov/what-you-need-know/county-status-and-safe-start-application-process>

⁸ *Id.*

Despite this phased opening, the Washington State Department of Health (DOH) continues to advise the public that staying home is still the safest option to avoid infection and that fewer and shorter interactions with others are crucial to help prevent the spread of the disease. Moreover, the DOH recommends that members of the public should recreate and do business locally to avoid spreading the virus across county lines.⁹ Current cases in the state are over 71,000, with 1876 deaths as of August 24.¹⁰

As of August 26, Lewis County, where the Employer's facility is located, was classified at Phase 3 of above-described reopening plan, which encompasses all activities in the previous phases regarding operation of manufacturing, construction, retail and other business with certain safety restrictions with teleworking remaining strongly encouraged, in addition to the following:

- Recreation, sports and fitness: Outdoor group recreational sports activities (50 or fewer people), recreational facilities at less than 25 percent capacity (gyms, public pools, etc.).
- Gatherings: Allow gatherings with no more than 10 people.
 - Spiritual or religious services: Indoor capacity of 50% or 400 people (whichever is less). Choirs not allowed. Health requirements for social distancing and facial coverings will remain the same as the guidance for previous phases.
- Travel: Resume non-essential travel
- Business: Customer-facing government services where employees and customers can remain 6-feet apart (telework remains strongly encouraged), museums limited to 50% capacity, indoor movie theaters limited to 25% capacity and libraries allowed at full capacity.

Under Phase 3, restaurants would be open at 50% capacity with indoor dining for only members of the same family, and no bar seating or karaoke.¹¹ No county in Washington state is currently at Phase 4, which would allow for a general reopening of business and recreation activities and facilities while still observing social distancing.

On July 22, the Lewis County Department of Public Health & Social Services (PHSS), through the Lewis County Health Officer Order #200722, recognized the existence of 139 cases of COVID-19 and the significant and increasing number of assumed cases of community transmission at a time when implementation of social distancing measures was recommended, and consequently ordered the cessation of all indoor and outdoor sporting events until further notice.¹²

⁹ <https://www.doh.wa.gov>

¹⁰ <https://www.doh.wa.gov/Emergencies/NovelCoronavirusOutbreak2020COVID19/DataDashboard>

¹¹ <https://www.coronavirus.wa.gov/what-you-need-know/safe-start/whats-open-each-phase#Phase3>

¹² <https://www.phsscovid.19.lewiscountywa.gov>

On August 3, the Lewis County Health Officer sent a letter to all County School Board School Superintendents urging and recommending that all K-12 schools remain closed to in-person general instruction for the 2020 school term and to utilize distance learning, noting that “[F]ailure to comply with this recommendation may require stronger restrictions in the future up to and including mandatory closure.”¹³

PHSS reports that as of August 23, Lewis County currently has 323 COVID-19 cases and 4 resulting deaths.¹⁴ There do not appear to be any statistics specifically for the city of Chehalis.

THE PARTIES’ POSITIONS

As noted above, the Employer argues that a manual-ballot election should be held at the Employer’s facility. In support of this argument, the Employer asserts that Lewis County is an area of the state that has only modestly been impacted by the COVID-19 pandemic and cites statistics consistent with those cited above. Based thereon, the Employer asserts that Lewis County has been minimally impacted by the pandemic and is not now nor has been at any time classified a “hot spot.” Furthermore, there have been no positive COVID-19 tests at the Employer’s facility.

Notwithstanding the limited number of cases in Lewis County and the absence of cases at the Employer’s facility, the Employer further argues that a mail-ballot election is inappropriate because the current circumstances of the pandemic do not fall under the limited “extraordinary circumstances” described in *San Diego Gas & Electric*, 325 NLRB 1143 (1998) that would allow a Regional Director to exercise his or her discretion to order a mail-ballot election. Specifically, the employees in the petitioned-for unit are not “scattered” with respect to geography or work schedules, and there is no strike or lockout that might prevent them from voting in a manual election. *Id.* at 1145.

In further support of its argument for a manual election, the Employer asserts that on-site voting increases employees’ participation compared to mail-ballot elections, and that mail-ballot elections fail to maintain the requisite “laboratory conditions” due to the lack of Board agent presence.¹⁵

Specifically, the Employer proposes that the election be held in its lunchroom, which could reasonably accommodate the Board agent, 2 observers, and 4 voters – 2 of whom are likely to be the observers – and should not take more than 15 minutes.¹⁶

¹³ *Id.*

¹⁴ *Id.*

¹⁵ The former assertion is based on GC Memorandum 08-05 (April 17, 2008) – the last time the General Counsel published annual participation rates for manual and mail-ballot elections and recent statistics from mail-ballot elections held since March 14 when the Regions began regularly conducted mail-ballot elections in response to the COVID-19 pandemic.

¹⁶ The Employer describes the lunchroom as “reasonably sized,” but does not provide specific dimensions or a floor plan.

The Employer further notes that the lunchroom can accommodate the following safety protocols:

- A safe traffic flow throughout the polling area;
- Accommodation of social distancing requirement by marking on the floor;
- Separate tables spaced six-feet apart for the Board agent, observers, voting booth, and ballot box;
- Plexiglass barriers to separate parties during the vote and both the pre-election conference and the ballot count; and
- Cleaning consistent with CDC guidelines.

In addition to the following, the Employer will also provide disposable pencils without erasers for each voter; glue sticks to seal challenged ballot envelopes; and hand sanitizer and will comply with the mechanics, certifications, and notifications set forth in GC 20-10.

The Petitioner did not file a brief in support of its position that a mail-ballot election is appropriate given the extraordinary circumstances of the COVID-19 pandemic.

THE BOARD'S STANDARD

Congress has entrusted the Board with a wide degree of discretion in establishing the procedure and safeguards necessary to insure the fair and free choice of bargaining representatives, and the Board in turn has delegated the discretion to determine the arrangements for an election to Regional Directors. *San Diego Gas and Elec.*, 325 NLRB 1143, 1144 (1998); citing *Halliburton Services*, 265 NLRB 1154 (1982); *National Van Lines*, 120 NLRB 1343, 1346 (1958); *NLRB v. A.J. Tower Co.*, 329 U.S. 324, 330 (1946). This discretion includes the ability to direct a mail ballot election where appropriate. *San Diego Gas & Elec.* at 1144-1145. Whatever decision a Regional Director does make should not be overturned unless a clear abuse of discretion is shown. *National Van Lines* at 1346.

The Board's longstanding policy is that elections should, as a rule, be conducted manually. *National Labor Relations Board Casehandling Manual Part Two Representation Proceedings*, Sec. 11301.2. However, a Regional Director may reasonably conclude, based on circumstances tending to make voting in a manual election difficult, to conduct an election by mail ballot. *Id.* This includes a few specific situations addressed by the Board, including where voters are "scattered" over a wide geographic area, "scattered" in time due to employee schedules, in strike situations, or "other extraordinary circumstances". *San Diego Gas*, supra at 1145.

On May 8, the Board, in an Order denying a request for review in *Atlas Pacific Engineering Company*, Case 27-RC-258742, addressed a mail ballot determination in the context of the COVID-19 pandemic. In its footnote to that Order, the Board noted that *San Diego Gas* contemplated "extraordinary circumstances" beyond the considerations

described above, and that circumstances in place at the time – federal, state, and local government directives limiting nonessential travel, requiring the closure of nonessential businesses, and the Regional office conducting the election on mandatory telework – constituted a valid basis for directing a mail ballot election in that case after considering the conditions surrounding a manual election.

In the General Counsel’s July 6 memorandum on manual election protocols (GC 20-10) previously referenced, the General Counsel reiterated that Regional Directors have the authority, delegated by the Board, to make “initial decisions about when, how, and in what manner all elections are conducted.” The General Counsel further noted Regional Directors have, and will:

make these decisions on a case-by-case basis, considering numerous variables, including, but not limited to, the safety of Board Agents and participants when conducting the election, the size of the proposed bargaining unit, the location of the election, the staff required to operate the election, and the status of pandemic outbreak in the election locality.

Subsequently, after issuance of GC 20-10, the Board issued an Order denying a Request for Review which involved a mail-ballot election determination based on COVID-19 considerations. Specifically, the Board found the pandemic to be an “extraordinary circumstance” as contemplated by *San Diego Gas & Electric, supra*. The Board did not formally adopt the guidance of GC 20-10, however, and noted only that: “The Board will continue to consider whether manual elections should be directly based on the circumstances then prevailing in the region charged with conducting that election, including the applicability to such a determination of the suggested protocols set forth in GC Memorandum 20-10.”¹⁷

More recently, the Board denied an employer’s Request for Review of a Regional Director’s order of a mail ballot election in *Daylight Transport LLC* 31-RC-262633 (Aug. 19, 2020), citing *San Diego Gas & Electric, supra*, for the proposition that extraordinary circumstances could permit a Regional Director to exercise her discretion outside of the guidelines set forth in that decision. Specifically, the Board relied upon the extraordinary circumstances resulting from the COVID-19 pandemic in finding that a mail-ballot election was warranted, despite the employer’s assurances that it would comply with CDC and GC 20-10’s foregoing guidelines and even hold the entire election outdoors.

ARGUMENT

The instant case raises the issue of whether to direct a mail ballot election based on public health concerns, and specifically whether the circumstances of the COVID-19 pandemic in Washington State and Lewis County make a mail ballot appropriate. Before turning to the specifics of this case, I note that I am only considering a mail ballot election in

¹⁷ *Brink’s Global Services USA, Inc.*, Case 29-RC-260969 (July 14, 2020).

this matter because of the extraordinary circumstances presented by the COVID-19 pandemic.

Based on recent Board rulings, it seems fairly undisputed at this particular time that the COVID-19 pandemic constitutes the kind of “extraordinary circumstance” contemplated in *San Diego Gas & Electric, supra* to justify departure from the Board’s normal practice of conducting manual elections.¹⁸ The safety of the voters, the observers, the party representatives, and the Board agent conducting the election must be considered in determining the appropriate method for conducting the election. Thus, after careful consideration of the record and the arguments of the parties, including the brief filed by the Employer, I find that a mail-ballot election is preferable to a manual election for the following reasons.

Although the number of COVID-19 cases in Lewis County appears to be relatively low compared with other counties in the State of Washington, the virus is not “well contained” as the Employer suggests. Rather, both State and local officials have recently expressed concern about the increase in cases over the past few months, and county health officials have prohibited public sporting events and have even taken the drastic step of recommending that schools hold only virtual classes for the duration of the year.

Furthermore, although the Employer asserts that none of its dozen employees at this facility, including the 4 in the petitioned-for unit, have been diagnosed with COVID-19,¹⁹ the fact remains that the CDC has estimated that nearly half of all cases are transmitted by pre-symptomatic or asymptomatic carriers and that the virus can survive for several hours in the air and maintain its infectibility.²⁰ Thus, the risk of infection to the Board agent or other parties during the pre-election conference, the election itself, and the subsequent ballot count remains unknown. While a manual election among such a small unit would not require a mass gathering of the kind still limited by state and local authorities, the Board agent and the observers would be exposed for longer than the mere 30 minutes requested for the manual election. Moreover, the Board agent would have to travel the approximately 90 miles to the facility during a time when the state is discouraging inter-county travel.

¹⁸ The Employer in its post-hearing brief argues the only exceptions to a manual election recognized in *San Diego Gas & Electric, supra*, is the existence of a “scattered” unit, either by geographic dispersion or work schedules, or a strike or work stoppage. As discussed in further detail above, however, these are not the only “extraordinary circumstance” recognized by *San Diego Gas & Electric* and its progeny.

¹⁹ I note that even though none of the Employer’s employees have contracted the virus, this does not mean that they or members of their families might not be diagnosed at any time in the future. If this were to occur, those employees would likely have to quarantine and may well be absent during the conducting of a manual election. Inasmuch as a manual election does not provide for absentee voting, a mail-ballot election would ensure that such employees would not be disenfranchised.

²⁰ See “Persistence of Severe Acute Respiratory Syndrome Coronavirus 2 in Aerosol Suspensions.” *Emerging Infectious Diseases Journal*, Volume 26, No. 9 – September 2020 (Early Release). https://wwwnc.cdc.gov/eid/article/26/9/20-1806_article (last accessed August 9, 2020). See also, “Predicting the Decay of SARS-CoV-2 in Airborne Particles.” <https://www.dhs.gov/publication/st-predicting-decay-sars-cov-2-airborne-particles-factsheet> (last accessed August 9, 2020).

Thus, it is clear that even the safest manual election still involves significant physical interaction, congregating, and an inherent risk of exposure to and infection by the virus. In this regard, the Employer does not describe whether it regularly practices or enforces face coverings or social distancing among its workforce at the facility, nor does it describe the steps taken by the employees in the petitioned-for unit, who are all drivers, to protect themselves from potential exposure by the Employer's customers. Moreover, the record is devoid of evidence regarding how far these drivers travel and whether they regularly go to other counties where they can potentially be exposed to the virus.²¹

Given the totality of the circumstances and the fact that Lewis County is still only in Phase 3 of the Governor's reopening plan, I find that even though the Employer has committed to taking steps to mitigate the risk of transmission, these measures may only reduce the danger of transmission but cannot eliminate it. Therefore, it is still appropriate to use a procedure that avoids possible transmission through person-to-person contact. I find it prudent at this time to order a mail-ballot election to ensure the safety of all parties involved.

CONCLUSIONS

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding, I find:

1. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.²²
2. The parties stipulated, and I so find, that the labor organization involved claims to represent certain employees of the Employer.
3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.²³
4. The parties stipulated, and I so find, that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

²¹ Nor does the record reveal whether the Employer's operations at this facility have been deemed an essential business or whether it has remained open since the initial shutdown.

²² The parties stipulated, and I so find, that the Employer, a state of Maryland corporation, with an office and place of business in Chehalis, Washington, operates a feed mill for the production and distribution of poultry feed, and that, during the last twelve months, the Employer derived gross revenues in excess of \$500,000 and had purchased and received at its Chehalis, Washington facility goods values in excess of \$50,000 directly from points located outside the State of Washington.

²³ The parties further stipulated, and I so find, that there is no history of collective bargaining between these parties in the proposed bargaining unit identified below and there is no contract or other bar in existence to an election in this case.

Included: All full-time and regular part-time employees employed by the Employer as feed drivers and working at or out of the Employer's facility in Chehalis, Washington.

Excluded: All other employees, including all production and maintenance employees, dispatchers, managerial employees, and guards and supervisors as defined in the Act.

There are approximately four (4) employees in the unit found appropriate herein.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by **TEAMSTERS LOCAL UNION NO. 252 AFFILIATED WITH THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS.**

A. Election Details

The election will be conducted by mail. On **Wednesday, September 9, 2020** the ballots will be mailed to voters by a designated official from the National Labor Relations Board, Region 19. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by **Wednesday, September 16, 2020** should communicate immediately with the National Labor Relations Board by either calling the Region 19 Office at **206-220-6300** or our national toll-free line at **1-866-667-NLRB (1-866-667-6572).**

Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 19 office by **12:00 p.m. (noon) PST on Wednesday, September 30, 2020.** Pursuant to the parties' Stipulation, no ballots will be counted that are received after the due date. All ballots will be commingled and counted by an agent of Region 19 of the National Labor Relations Board on **Friday, October 2, 2020 at 1:00 p.m.** with participants being present via electronic means. No party may make a video or audio recording or save any image of the ballot count. If, at a later date, it is determined that a ballot count can be safely held in the Regional Office, the Region will inform the parties with sufficient notice so that they may attend.

B. Voting Eligibility

Those eligible to vote in the election are employees in the above unit who were employed during the payroll period ending **immediately preceding the date of this election**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees

engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls or by mail as described above.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

C. Voter List

As required by Section 102.67(1) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

The Petitioner has waived its right to have the voter list for the entire 10-day period, such waiver being contingent upon the Petitioner having the eligibility list for at least 5 days before the start of the election. To be timely filed and served, the list must be *received* by the Regional Director and the parties by **Wednesday, September 2, 2020**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board. Such a request for review will be limited to the method of the election ordered. A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions.²⁴ If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations

²⁴ On October 21, 2019, the General Counsel (GC) issued Memorandum GC 20-01, informing the public that Section 102.5(c) of the Board's Rules and Regulations mandates the use of the E-filing system for the submission of documents by parties in connection with the unfair labor practice or representation cases processed in Regional offices. The E-Filing requirement went into immediate effect on October 21, 2019, and the 90-day grace period that was put into place expired on January 21, 2020. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden.

Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review. A request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated at Seattle, Washington on August 31, 2020.

Ronald K. Hooks

RONALD K. HOOKS, REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 19
915 2ND AVE, SUITE 2948
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United States of America
National Labor Relations Board



NOTICE OF ELECTION

INSTRUCTIONS TO EMPLOYEES VOTING BY U.S. MAIL

19-RC-263822

PURPOSE OF ELECTION: This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. (See VOTING UNIT in this Notice of Election for description of eligible employees.) A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

SECRET BALLOT: The election will be by secret ballot carried out through the U.S. mail under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Employees eligible to vote will receive in the mail *Instructions to Employees Voting by United States Mail*, a ballot, a blue envelope, and a yellow self-addressed envelope needing no postage.

ELIGIBILITY RULES: Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are not eligible to vote.

CHALLENGE OF VOTERS: An agent of the Board or an authorized observer may question the eligibility of a voter. Such challenge must be made at the time the ballots are counted.

AUTHORIZED OBSERVERS: Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

METHOD AND DATE OF ELECTION

The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit. At 4:45 PM on Wednesday, September 9, 2020, ballots will be mailed to voters from the National Labor Relations Board, Region 19. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by Wednesday, September 16, 2020, should communicate immediately with the National Labor Relations Board by either calling the Region 19 Office at (206)220-6300 or our national toll-free line at 1-844- 762-NLRB (1-844- 762-6572).

All ballots will be commingled and counted by a designated Board Agent of the National Labor Relations Board at 1:00 PM on Friday, October 2, 2020, likely via a videoconference to be arranged by Region 19. In order to be valid and counted, the returned ballots must be received in the Region 19 Office, 2948 Jackson Federal Building, 915 Second Ave, Seattle, WA 98174-1009 by 12:00 PM PST on Wednesday, September 30, 2020.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.



United States of America
National Labor Relations Board
NOTICE OF ELECTION



INSTRUCTIONS TO EMPLOYEES VOTING BY U.S. MAIL



VOTING UNIT

EMPLOYEES ELIGIBLE TO VOTE:

Those eligible to vote are: All full-time and regular part time employees employed by the Employer as feed drivers and working at or out of the Employer's facility in Chehalis, WA who were employed during the payroll period ending August 30, 2020.

EMPLOYEES NOT ELIGIBLE TO VOTE:

Those not eligible to vote are: All other employees, including all production and maintenance employees, dispatchers, managerial employees, and guards and supervisors as defined by the Act.

	UNITED STATES OF AMERICA National Labor Relations Board 19-RC-263822					
OFFICIAL SECRET BALLOT For certain employees of Perdue Foods, LLC d/b/a Draper Valley Farms						
Do you wish to be represented for purposes of collective bargaining by Teamsters Local Union No. 252 affiliated with the International Brotherhood of Teamsters?						
MARK AN "X" IN THE SQUARE OF YOUR CHOICE						
	<table border="1"><tr><td>YES</td></tr><tr><td><input type="checkbox"/></td></tr></table>	YES	<input type="checkbox"/>	<table border="1"><tr><td>NO</td></tr><tr><td><input type="checkbox"/></td></tr></table>	NO	<input type="checkbox"/>
YES						
<input type="checkbox"/>						
NO						
<input type="checkbox"/>						
<p>DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY. MARK AN "X" IN THE SQUARE OF YOUR CHOICE ONLY.</p> <p>If you make markings inside, or anywhere around, more than one square, you may request a new ballot by referring to the enclosed instructions. If you submit a ballot with markings inside, or anywhere around, more than one square, your ballot will not be counted.</p> <p><small>The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.</small></p>						

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

United States of America
National Labor Relations Board

**Instructions to Eligible Employees Voting
By United States Mail**



INSTRUCTIONS

1. MARK YOUR BALLOT IN SECRET BY PLACING AN X IN THE APPROPRIATE BOX. DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY.
2. IF YOU SUBMIT A BALLOT WITH MARKINGS INSIDE, OR ANYWHERE AROUND, MORE THAN ONE SQUARE, YOUR BALLOT WILL NOT BE COUNTED. YOU MAY REQUEST A NEW BALLOT BY CALLING THE REGIONAL OFFICE AT THE NUMBER BELOW.
3. IT IS IMPORTANT TO MAINTAIN THE SECRECY OF YOUR BALLOT. DO NOT SHOW YOUR BALLOT TO ANYONE AFTER YOU HAVE MARKED IT.
4. PUT YOUR BALLOT IN THE BLUE ENVELOPE AND SEAL THE ENVELOPE.
5. PUT THE BLUE ENVELOPE CONTAINING THE BALLOT INTO THE YELLOW ADDRESSED RETURN ENVELOPE.
6. SIGN THE BACK OF THE YELLOW RETURN ENVELOPE IN THE SPACE PROVIDED. TO BE COUNTED, THE YELLOW RETURN ENVELOPE MUST BE SIGNED.
7. DO NOT PERMIT ANY PARTY – THE EMPLOYER, THE UNION(S), OR THEIR REPRESENTATIVES, OR AN EMPLOYEE-PETITIONER – TO HANDLE, COLLECT, OR MAIL YOUR BALLOT.
8. MAIL THE BALLOT IMMEDIATELY. NO POSTAGE IS NECESSARY. For further information, call the Regional Office at: **206-220-6300**

TO BE COUNTED, YOUR BALLOT MUST REACH THE REGIONAL OFFICE

BY

Wednesday, September 30, 2020

RIGHTS OF EMPLOYEES

Under the National Labor Relations Act, employees have the right:

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of their own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for non representational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both employers and unions to know what is expected of them when it holds an election.

If agents of either unions or employers interfere with your right to a free, fair, and honest election, the election can be set aside by the Board. Where appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in the setting aside of the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes.

The National Labor Relations Board protects your right to a free choice

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law. The National Labor Relations Board as an agency of the United States Government does not endorse any choice in the election.



NATIONAL LABOR RELATIONS BOARD
an agency of the
UNITED STATES GOVERNMENT



United States of America
National Labor Relations Board



NOTICE OF ELECTION

INSTRUCTIONS TO EMPLOYEES VOTING BY U.S. MAIL

RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union
- Choose representatives to bargain with your employer on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities
- In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

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The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- Threatening loss of jobs or benefits by an Employer or a Union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time where attendance is mandatory, within the 24-hour period before the mail ballots are dispatched
- Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a Union or an Employer to influence their votes

The National Labor Relations Board protects your right to a free choice.

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact the NLRB Office at (206)220-6300 or visit the NLRB website www.nlr.gov for assistance.